

(End of clause)

*Alternate I* (DEC 1991). As prescribed in 246.710(2), substitute the following for paragraph (d)(3) of the basic clause:

(3) In addition to the remedies under paragraphs (d)(1) and (2) of this clause, the Contractor shall be liable to the Government for all damages to the Government as a result of the breach of warranty.

(i) The additional liability under paragraph (d)(3) of this clause shall not exceed 75 percent of the target profit.

(ii) If the breach of the warranty is with respect to the data supplied by an equipment subcontractor, the limit of the Contractor's liability shall be—

(A) Ten percent of the total subcontract price in a firm fixed price subcontract;

(B) Seventy-five percent of the total subcontract fee in a cost-plus-fixed-fee or cost-plus-award-fee subcontract; or

(C) Seventy-five percent of the total subcontract target profit or fee in a fixed-price or cost-plus-incentive-type contract.

(iii) Damages due the Government under the provisions of this warranty are not an allowable cost.

(iv) The additional liability in paragraph (d)(3) of this clause shall not apply—

(A) With respect to the requirements for product drawings and associated lists, special inspection equipment (SIE) drawings and associated lists, special tooling drawings and associated lists, SIE operating instructions, SIE descriptive documentation, and SIE calibration procedures under MIL-T-31000, General Specification for Technical Data Packages, Amendment 1, or MIL-T-47500, General Specification for Technical Data Packages, Supp 1, or drawings and associated lists under level 2 or level 3 of MIL-D-1000A, Engineering and Associated Data Drawings, or DoD-D-1000B, Engineering and Associated Lists Drawings (Inactive for New Design) Amendment 4, Notice 1; or drawings and associated lists under category E or I of MIL-D-1000, Engineering and Associated Lists Drawings, provided that the data furnished by the Contractor was current, accurate at time of submission, and did not involve a significant omission of data necessary to comply with the requirements; or

(B) To defects the Contractor discovers and gives written notice to the Government before the Government discovers the error.

*Alternate II* (DEC 1991). As prescribed at 246.710(3), substitute the following paragraph for paragraph (d)(3) of the basic clause:

(3) In addition to the remedies under paragraphs (d)(1) and (2) of this clause, the Contractor shall be liable to the Government for

all damages to the Government as a result of the breach of the warranty.

(i) The additional liability under paragraph (d)(3) of this clause shall not exceed ten percent of the total contract price.

(ii) If the breach of the warranty is with respect to the data supplied by an equipment subcontractor, the limit of the Contractor's liability shall be—

(A) Ten percent of the total subcontract price in a firm fixed-price subcontract;

(B) Seventy-five percent of the total subcontract fee in a cost-plus-fixed-fee or cost-plus-award-fee subcontract; or

(C) Seventy-five percent of the total subcontract target profit or fee in a fixed-price or cost-plus-incentive-type contract.

(iii) The additional liability specified in paragraph (d)(3) of this clause shall not apply—

(A) With respect to the requirements for product drawings and associated lists, special inspection equipment (SIE) drawings and associated lists, special tooling drawings and associated lists, SIE operating instructions, SIE descriptive documentation, and SIE calibration procedures under MIL-T-31000, General Specification for Technical Data Packages, Amendment 1, or MIL-T-47500, General Specification for Technical Data Packages, Supp 1, or drawings and associated lists under level 2 or level 3 of MIL-D-1000A, Engineering and Associated Data Drawings, or DoD-D-1000B, Engineering and Associated Lists Drawings (Inactive for New Design) Amendment 4, Notice 1; or drawings and associated lists under category E or I of MIL-D-1000, Engineering and Associated Lists Drawings, provided that the data furnished by the Contractor was current, accurate at time of submission, and did not involve a significant omission of data necessary to comply with the requirements; or

(B) To defects the Contractor discovers and gives written notice to the Government before the Government discovers the error.

#### **252.246-7002 Warranty of construction (Germany).**

As prescribed in 246.710(4), use the following clause:

##### **WARRANTY OF CONSTRUCTION (GERMANY) (JUNE 1997)**

(a) In addition to any other representations in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that the work performed under this contract conforms to the contract requirements and is free of any defect of equipment, material, or design furnished or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for the period(s) specified in Section 13, VOB, Part B,

commencing from the date of final acceptance of the work under this contract. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for the period(s) specified in Section 13, VOB, Part B, from the date the Government takes possession.

(c) The Contractor shall remedy, at the Contractor's expense, any failure to conform or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to Government-owned or -controlled real or personal property when that damage is the result of—

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, or design furnished or workmanship performed.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable period of time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable period of time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall—

(1) Obtain all warranties that would be given in normal commercial practice;

(2) Require all warranties to be executed in writing, for the benefit of the Government, if directed by the Contracting Officer; and

(3) Enforce all warranties for the benefit of the Government as directed by the Contracting Officer.

(h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(i) Unless a defect is caused by the Contractor's negligence, or the negligence of a subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government or for the repair of any damage resulting from any defeat in Government-furnished material or design.

(j) This warranty shall not limit the Government's right under the Inspection clause of this contract, with respect to latent defects, gross mistakes, or fraud.

(End of clause)

[62 FR 34135, June 24, 1997; 62 FR 49306, Sept. 19, 1997]

#### 252.247-7000 Hardship conditions.

As prescribed in 247.270-6(a), use the following clause:

##### HARDSHIP CONDITIONS (AUG 2000)

(a) If the Contractor finds unusual ship, dock, or cargo conditions associated with loading or unloading a particular cargo, that will work a hardship on the Contractor if loaded or unloaded at the basic commodity rates, the Contractor shall—

(1) Notify the Contracting Officer before performing the work, if feasible, but no later than the vessel sailing time; and

(2) Submit any associated request for price adjustment to the Contracting Officer within 10 working days of the vessel sailing time.

(b) Unusual conditions include, but are not limited to, inaccessibility of place of stowage to the ship's cargo gear, side port operations, and small quantities of cargo in any one hatch.

(c) The Contracting Officer will investigate the conditions promptly after receiving the notice. If the Contracting Officer finds that the conditions are unusual and do materially affect the cost of loading or unloading, the Contracting Officer will authorize payment at the applicable man-hour rates set forth in the schedule of rates of this contract.

(End of clause)

[65 FR 50147, Aug. 17, 2000]

#### 252.247-7001 Price adjustment.

As prescribed in 247.270-6(b), use the following clause:

##### PRICE ADJUSTMENT (JAN 1997)

(a) The Contractor warrants that the prices set forth in this contract—

(1) Are based upon the wage rates, allowances, and conditions set forth in the collective bargaining agreements between the Contractor and its employees, in effect as of (*insert date*), and which are generally applicable to the ports where work under this contract is performed;

(2) Apply to operations by the Contractor on non-Government work as well as under this contract; and

(3) Do not include any allowance for cost increases that may—

(i) Become effective under the terms of the collective bargaining agreements after the date in paragraph (a)(1) of this clause; or

(ii) Result from modification of the collective bargaining agreements after the date in paragraph (a)(1).

(b) The Contractor shall notify the Contracting Officer within 60 days of receipt of notice of any changes (increase or decrease)